

## **R E M A R K S**

Claims **1 - 25** are pending in the present application.

Claims **1, 2, 3, 5, 10, 12, 13 and 15 - 25** are independent.

### **Claim Objections**

Claim **9** has been amended to correct to obvious typographical error noted by the Examiner. No new matter has been added and no amendment was made for a reason related to patentability.

### **Section 112, ¶ 1 Rejections**

Claims **10, 13 and 14** stand rejected as failing to comply with the written description requirement. Applicants traverse the Examiner's Section 112 rejection.

The rejection is baseless because these rejected claims are the claims as originally filed. Thus, by definition the rejected claims provide a part of the written description of the present application. MPEP 2163(I) ("It is now well accepted that a satisfactory description may be in the claims or any other portion of the originally filed specification.")

## Section 102 and 103 Rejections

Claims **1 - 25** stand rejected as either anticipated by or obvious in light of Walker (U.S. Patent No. 6,298,331). Applicants respectfully traverse the Examiner's Section 102 rejection.

Walker cannot be used in a prior art rejection against the present application because the present application claims the benefit of priority of the application that issued into the Walker patent.

### Section 101 Rejections

Claims **3 - 15** stand rejected as being non-statutory. Applicants traverse the Examiner's Section 101 rejection.

The Examiner has used an improper standard in rejecting the claims, and has failed to use the proper legal standard for determining compliance with 35 U.S.C. § 101.

The basis for that rejection appears to be that the claimed steps "can be performed in the mind of a user or by use of a pencil and paper." (Office Action, page 4, 2<sup>nd</sup> paragraph). There is no legal authority for the Examiner's proposition that claims must preclude mental and manual embodiments.

The legal test for the presence of statutory subject matter is only that a claimed process or apparatus produce a "useful, concrete and tangible result". See, e.g., State Street Bank & Trust Co. v. Signature Fin. Group, Inc., 149 F.3d 1368, 1375, 47 U.S.P.Q.2D 1596 (Fed. Cir. 1998), cert. denied, 525 U.S. 1093, 142 L. Ed. 2d 704, 119 S. Ct. 851 (1999)

The Examiner agrees with the Applicants that the claims produce a useful, concrete and tangible result. Office Action, page 4, 3<sup>rd</sup> paragraph. Therefore, the claims are necessarily statutory.

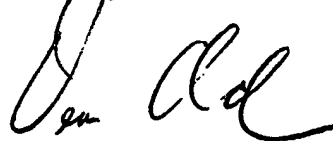
If the rejection is maintained, please provide some authority for the legal test used.

**Conclusion**

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Respectfully submitted,



April 26, 2005

Date

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